

**Valley Transit Rules of Conduct
(including Service Exclusions)
and Regulation of Communication Activities**

ARTICLE I. INTRODUCTION

Valley Transit vehicles, facilities, and properties are intended to provide services for the benefit of the general public. Pursuant to RCW 36.57A.080, and in order to maintain public transportation services that are orderly, safe, secure, comfortable, and convenient, Valley Transit has enacted the following Rules of Conduct. The Rules of Conduct are intended to regulate conduct occurring with Transit employees, on Valley Transit vehicles, within or upon Valley Transit facilities and properties, and in connection with Valley Transit's provision of public transportation services.

The Rules of Conduct consist of four separate articles, which include the following:

Article I - Introduction; Article II – Definitions; Article III – Regulation of Conduct; and Article IV – Public Communication Activities. Unless otherwise provided herein, reference to the phrase "Rules of Conduct" shall collectively include Articles I through IV.

If any one or more of the provision(s) in the Rules of Conduct shall be declared by any court of competent jurisdiction to be contrary to law, then such provision(s) shall be null and void and shall be deemed separable from the remaining provisions in the Rules of Conduct and shall in no way affect the validity of the other provisions of the Rules of Conduct.

ARTICLE II. DEFINITIONS

As used in these Rules of Conduct, the words herein shall have the meaning provided in this Article II. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words imparting the singular number shall include the plural numbers and vice-versa, unless the context shall otherwise dictate.

- A. "Bus shelter" shall mean those structures located in transit vehicle loading zones that provide cover for the general public to board and alight from transit vehicles.
- B. "Commercial activity or activities" shall mean any enterprise or venture by groups or individuals for the purpose of promoting or selling products or services to Valley Transit employees or the general public whether for profit or not.
- C. "General public" shall mean any person or group of persons, including Valley Transit employees not acting in an official capacity at the time.
- D. "News racks" shall mean any stand, box, structure, rack, or other device, which is designed and used for the sale of and/or distribution of newspapers, periodicals, magazines, or other publications or combinations of the same.

- E. "Park-and-Ride lots" shall mean locations at which persons park their individual vehicles and transfer to a transit vehicle or car/vanpool vehicles, including all physical improvements and landscaping.
- F. "Permit" shall mean a permit that gives a Permittee authority to conduct public communication activities in a manner consistent with applicable endorsements, limitations, rules, and procedures described in these Rules of Conduct.
- G. "Permittee" shall mean any individual, firm, partnership, corporation, organization, association, or entity of any kind who obtains a Permit as described above.
- H. "Person" shall mean any individual, firm, partnership, corporation, organization, association, or entity of any kind.
- I. "Public communication activity or activities" shall mean the posting or distributing of flyers, pamphlets, brochures, books, or other written, printed, or graphic material; collecting petition signatures; political campaigning; demonstrating; displaying signs; picketing; unscheduled playing of musical instruments or other performances; public speaking; conducting surveys; soliciting or receiving of funds or contributions of any kind for any purpose; or otherwise communicating or attempting to communicate to the general public.
- J. "Public transportation services" shall include the definition of public transportation services in RCW 36.57A.010(10), together with vanpools and fixed route and paratransit services, whether operated by Valley Transit or any governmental agency, private person, firm, or corporation contracting with Valley Transit pursuant to chapter 36.57A RCW.
- K. "Valley Transit" is a Washington municipal corporation and Public Transportation Benefit Area organized and operating under and by virtue of the laws of the State of Washington.
- L. "Valley Transit employee" shall mean any part-time or full-time, temporary or regular, exempt or non-exempt, represented or non-represented person, including an intern or contracted party, who is compensated by Valley Transit for services by wages, salary, or other remuneration.
- M. "Valley Transit facilities and properties" shall mean all facilities, structures, schedule and news racks, kiosks, fare vending machines, bulletin and information boards, bus stop signs, lands, interest in lands, air rights over lands, and rights of way of all kinds that are owned, leased, held, or used by Valley Transit for the purpose of providing public transportation services, including, but not limited to, park and ride lots, transit centers, bus shelters, and public streets and sidewalks that are used by the general public to board and alighting from transit vehicles.
- N. "Valley Transit vehicle" shall mean a municipal transit vehicle defined in RCW 46.04.355. It also includes any Valley Transit maintenance vehicle or supervisor van.
- O. "Transit centers" shall mean locations where transit routes have a common terminus and facilities are provided to facilitate general public boarding and alighting from transit vehicles, including all physical improvement and landscaping.
- P. "Transit-related activities" shall mean activities associated with the provision or support of Valley Transit public transportation services, the use of those services by the general public, or Valley

Transit sales, promotion, and maintenance activities in support of Valley Transit public transportation services.

ARTICLE III. REGULATION OF CONDUCT

A. Prohibited Conduct

The following conduct is prohibited on Valley Transit vehicles, within or upon Valley Transit facilities or property, and in connection with Valley Transit's provision of public transportation services:

1. Engaging in any conduct prohibited by RCW 9.91.025 or prohibited by any federal, state, or municipal civil or criminal law;
2. Except in a designated place, the use of chewing tobacco, or e-cigarettes, or smoking or carrying a lighted or smoldering pipe, cigar or cigarette;
3. The consumption, display, or use of marijuana, or smoking or carrying a lighted or smoldering pipe, cigar or cigarette of marijuana;
4. Possessing any open beverage container holding alcohol or possessing controlled substances, unless otherwise authorized by law;
5. Discarding litter other than in designated receptacles;
6. Dumping or discarding any materials on transit property, including but not limited to hazardous substances and automotive fluids;
7. Playing any radio, recorder, or other sound-production equipment, except that nothing herein shall prohibit the use of such equipment when connected to earphones that limit the sound to individual listeners or the use of communication devices by Valley Transit employees, Valley Transit contractors, or public safety officers in the line of duty, or the use of private communication devices used to summon, notify, or communication with other individuals (e.g., pagers, beepers, or cellular telephones);
8. Spitting, urinating, or defecating, except in the appropriate plumbing fixtures in restroom facilities;
9. Failure to maintain a reasonable level of personal hygiene. It is not Valley Transit's objective to enforce personal hygiene standards on the public, but in order to maintain a clean and safe environment to all who use Valley Transit's vehicles and property, passengers who may contaminate an area due to blood, urine, fecal matter, or other body fluids will be refused transportation. This includes those whose body odor is so offensive that others would complain and vacate the immediate area;
10. Carrying any flammable liquid, explosive, acid, or other article or material likely to cause harm to others except that nothing herein shall prevent a person from carrying a cigarette, cigar, or pipe lighter or carrying a firearm or ammunition in a way that is not otherwise prohibited by law or these Rules of Conduct;
11. Obstructing or impeding the flow of Valley Transit's vehicles or passenger traffic or hindering or preventing access to Valley Transit vehicles, facilities, or property. This includes causing unreasonable delays in boarding or alighting, blocking or partially blocking an aisle or stairway with a package or object, reclining in more than one seat, or otherwise unlawfully interfering with the provision or use of public transportation services;
12. Disturbing others by engaging in loud, raucous, unruly, harmful, aggressive, violent, or harassing behavior (flashing gang signs or displaying gang colors is considered harassing behavior);
13. Destroying, defacing, or otherwise damaging Valley Transit property;

14. Carrying, exhibiting, displaying, or drawing any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons, unless otherwise authorized by law;
15. Throwing an object at Valley Transit vehicles, facilities, or property, or throwing an object at any person on Valley Transit property;
16. Allowing any animal to occupy a seat on transit property, to run at large, to unreasonably disturb others, to leave waste matter on Valley Transit property, to board transit vehicles unless secured in an approved pet container, or to interfere with transit-related activities. Exceptions will be made for service animals;
17. Engages in other conduct that is inconsistent with the intended purpose of the transit facility, transit station, or transit vehicle and refuses to obey the lawful commands of an agent of the transit authority or a law enforcement officer to cease such conduct;
18. Roller-skating, rollerblading, or skateboarding;
19. Riding bicycles, unicycles, mopeds, or other motorcycles, except where public vehicle travel and access is permitted;
20. Eating on Valley Transit vehicles or in prohibited areas of Valley Transit facilities and properties;
21. Drinking, except from a spill-proof covered container, on Valley Transit vehicles or in prohibited areas of Valley Transit facilities and properties;
22. Using a public address system, loudspeaker, or other sound-amplifying device, except as authorized by Valley Transit or its designee;
23. Using Valley Transit property for residential or commercial parking purposes except as authorized by Valley Transit or its designee;
24. Operating, stopping, standing, or parking a vehicle in any roadway or location restricted for use only by Valley Transit vehicles or otherwise restricted;
25. Sitting or lying on floors of Valley Transit vehicles or floors, sidewalks, asphalt, or other ground covering in or on Valley Transit facilities and properties;
26. Sleeping, camping, or storing personal property on benches or floors on or within Valley Transit's vehicles, facilities, properties, unless otherwise authorized by law;
27. Entering or remaining upon any nonpublic areas of Valley Transit facilities or properties, including, but not limited to, staging areas, work areas, and equipment rooms, except when authorized by Valley Transit or its designee;
28. Refusing to move from priority seating designated for elderly or disabled passenger;
29. Entering Valley Transit vehicles, facilities, or properties without wearing a shirt or shoes unless medical accommodation is pre-authorized by the transit agency to allow for coverings other than shoes;
30. Engaging in commercial activities, except when such activities are authorized by Valley Transit or its designee in a written permit, license, concession contract, lease, or other written authorization;
31. Engaging in public communication activities, except as such activities are authorized by Article IV;
32. Engaging in any civic, cultural, or other special event, not included in the definitions of commercial or public communication activities in Article II herein, except as such activities are authorized by Valley Transit or its designee in a written permit, license, concession contract, lease, or other written authorization;
33. Committing any act which tends to create or incite, or creates or incites, an immediate breach of peace, including, but not limited to,

- (a) fighting,
 - (b) racing,
 - (c) obscene language and noisy or boisterous conduct tending to cause a breach of the peace, and
 - (d) personally abusive epithets or words or language of an offensive, disgusting, or insulting nature, which epithets, words, or language when addressed to the ordinary citizen are, as a matter of common knowledge, inherently likely to provoke a violent reaction of fear, anger, or apprehension;
34. Engaging in sexual activity with self or others while riding or accessing Valley Transit vehicles, facilities, or properties;
 35. Displaying or reading pornographic material where others may see it;
 36. Engaging in gambling or any game of chance for the winning of money or anything of value;
 37. Using Valley Transit vehicles, facilities, or properties for nontransit-related activities, except as authorized by Valley Transit or its designee;
 38. Entering Valley Transit vehicles, facilities, or properties when lacking the ability to care for oneself because of illness, intoxication, or medication(s);
 39. Extending an object or a portion of one's body through the door or window of a Valley Transit vehicle;
 40. Hanging or swinging on bars or stanchions with feet off the floor while on transit property or hanging onto or otherwise attaching oneself to the exterior of a transit vehicle or other transit property;
 41. Engaging in any physical sport activity on transit property;
 42. Loitering or "hanging out" (customers are expected to board the next scheduled transit vehicle traveling in the direction of their destination);
 43. Refusing to allow proper securement of a wheelchair on Valley Transit vehicles;
 44. Failure to pay the appropriate fare as required by Valley Transit; or falsely representing oneself as eligible for a special or reduced fare or obtaining any permit or pass related to the Valley Transit system by making a false representation;
 45. Wearing of clothing or mask that prevents transit employees from determining the identity of the individual, or demographic information, necessary to apply bus fare policy accurately, or that renders security video useless for identification purposes;
 46. Falsely claiming to be a transit operator or other transit employee or volunteer, or, through words, actions and/or the use of clothes, insignia, or equipment resembling department-issued uniforms and equipment, creating a false impression that one is a transit operator or other transit employee or volunteer;
 47. Interfering or tampering with mobile data computers, fareboxes, transfer slips, or any other equipment on Valley Transit vehicles or properties;
 48. Laying hands or verbally intimidating a transit operator or transit employee, including spitting on them.
 49. Exceeding the number of no-shows allowed under the paratransit procedures, provided that trips missed for reasons beyond the customer's control shall not be counted as no-shows;
 50. Impeding paratransit service through non-compliance with the paratransit procedures; and
 51. Violating an exclusion order issued under these Rules of Conduct.

B. Enforcement

1. Exclusion from Service.
 - (a) Basis for Exclusion. Any person engaging in prohibited conduct under these provisions of Article III, Section A, may be refused entrance upon, ordered to leave, or otherwise

restricted in the use of Valley Transit vehicles, facilities, or properties by a commissioned law enforcement official, Valley Transit personnel, or authorized personnel of a Valley Transit contracted service provider. Failure to immediately comply with such a removal or exclusion order may be grounds for prosecution for criminal trespass and/or unlawful transit conduct.

- (b) Immediate Exclusion or Removal. A Valley Transit employee may immediately reseal, refuse transportation, or remove from Valley Transit vehicles, facilities, or properties without prior written notice a person who has engaged in prohibited conduct under Article III, Section A, which, in the Valley Transit employee's discretion, poses a safety or security risk, interferes with or impinges on the rights of others, impedes the free flow of the general public, or impedes the orderly and efficient use of Valley Transit vehicles, facilities, or properties. If an individual who is immediately excluded or removed is also excluded from future access to Valley Transit agency vehicles, facilities, or properties, Valley Transit should, to the extent possible, give notice to that individual of the future exclusion pursuant to section (B) (c).
- (c) Notice Procedure. Valley Transit may give a person to be excluded from Valley Transit vehicles, facilities, or properties written notice, to the extent possible, by personal delivery or by U.S. Postal Service Priority Mail, delivery confirmation requested, addressed to the person's last known address. The notice shall specify the reason or reasons for exclusion, identify the scope, duration, and effective date of the exclusion, and explain the appeal process. The exclusion notice is effective upon actual or constructive receipt.
- (d) Constructive Receipt. Receipt of an exclusion notice is construed to have occurred if the person knew or reasonably should have known from the circumstances that he or she is excluded from Valley Transit vehicles, facilities, or properties. Receipt of an exclusion notice is also presumed to have been accomplished three calendar days after the notice has been placed in the U.S. Mail to the person's last known mailing address.
- (e) Length of Exclusion. The following suggested exclusion lengths are guidelines to be used by Valley Transit in determining the duration of a particular exclusion under the provisions of Article III. The actual exclusion period imposed may be shorter or longer depending on the circumstances of each case. Circumstances that Valley Transit may consider in determining the length of exclusion include, but are not limited to, the circumstances of the incident and the individual's history of documented prior conduct/incidents while using or accessing Valley Transit vehicles, facilities, or properties. **Permanent exclusion may be appropriate under certain circumstances.**
 - (1) If the person being excluded has had no policy violations, including exclusions or removals, in the prior 12 months, and
 - a. The prohibited conduct would constitute a misdemeanor in Washington State or prohibited by RCW 9.91.025, the duration of the exclusion should not exceed 30 days.
 - b. The prohibited conduct would constitute a felony in Washington State; the exclusion should not exceed 90 days.

- (2) If the person being excluded has had one prior policy violation, including exclusions or removals, in the prior 12 months, and
 - a. The prohibited conduct would constitute a misdemeanor in Washington State or prohibited by RCW 9.91.025, the duration of the exclusion should not exceed 60 days.
 - b. The prohibited conduct would constitute a felony in Washington State; the exclusion should not exceed 90 days.
 - (3) If the person being excluded has had two or more prior policy violations, including exclusions or removals, in the prior 12 months, and
 - a. The prohibited conduct would constitute a misdemeanor in Washington State or prohibited by RCW 9.91.025, the duration of the exclusion should not exceed 90 days.
 - b. The prohibited conduct would constitute a felony in Washington State; the exclusion should not exceed 120 days.
 - (4) If the prohibited conduct is identified as a crime against a person or involves a firearm or other dangerous weapon, the duration of the exclusion could range from 365 days to permanent.
- (f) Appeal Procedure. Not later than 15 calendar days after an exclusion notice becomes effective, an excluded person may appeal in writing to the Valley Transit Director of Operations for a review of the exclusion. The appellant may request a hearing, or the appellant may request review without a hearing based on a written statement setting forth the reasons why the appellant believes exclusion is invalid or improper. If the appellant is unable to respond in writing, Valley Transit will make reasonable accommodations. If no hearing is requested, the Valley Transit Manager of Operations, or his or her designee, shall render a written decision within 20 calendar days after Valley Transit's receipt of the appeal.
- (g) Hearing. If the appellant does request a hearing, the hearing shall be held within 30 calendar days after Valley Transit's receipt of the appeal, and the hearing may be recorded (see consent form). The Valley Transit Manager of Operations, or his or her designee, shall render a written decision within 20 calendar days after the hearing. The appellant may be represented by counsel and may present witnesses to testify upon oath or affirmation in support of the appeal. The Manager of Operations may also hear from witnesses who testify upon oath or affirmation, and he or she may examine evidence during the appeal hearing. The exclusion shall remain in effect during the appeal process.

2. Other Laws Not Limited.

The enforcement of Article III herein is not intended to limit, in any manner, the enforcement of any applicable federal, state, or municipal laws, provided that Valley Transit employees and volunteers are not authorized to assist in enforcing a court order prohibiting or restricting contact with any other person other than to notify appropriate law enforcement personnel via Valley Transit's dispatcher, supervisor, or Valley Transit Security.

C. Liability

Nothing in Article III herein shall create a duty to any person on the part of Valley Transit or form any basis for liability on the part of Valley Transit, its officers, agents, employees, or volunteers. The obligation to comply with Article III is solely that of any person entering and using Valley Transit's vehicles, facilities, and properties, and Valley Transit's enforcement of Article III is discretionary not mandatory.

ARTICLE IV. PUBLIC COMMUNICATION ACTIVITIES

A. Purpose and Scope

1. Non-Public Forum

As a provider of public transportation services, Valley Transit makes a variety of transit vehicles, facilities, and properties available to persons who use such public transportation services. Although these transit vehicles, facilities, and properties may be accessed by the general public, they are not open public forums either by nature or by designation. They are intended to be used solely for transit-related activities and provide little, if any, space for other nontransit-related activities.

2. Valley Transit's Legitimate Interests

Most public communication activities are prohibited on Valley Transit vehicles and within or upon Valley Transit facilities and properties regardless of the viewpoint expressed, because they are incompatible with Valley Transit's legitimate interests. These legitimate interests include, but are not limited, to the following:

- (a) securing the use of scarce parking spaces and bus shelter space for persons who are using public transportation services;
- (b) maintaining safe, clean, and secure transit vehicles, facilities, and properties to retain existing, and attract new, users of public transportation services;
- (c) reducing litter pick-up and other maintenance or administrative expenses so as to maximize the provision of public transportation services; and
- (d) preventing delays and inconvenience to the general public by minimizing congestion and expediting boarding, transferring, and alighting from Valley Transit vehicles.

3. Purpose of Article IV and Valley Transit Vehicles, Facilities, and Properties

Valley Transit vehicles, facilities, and properties are first and foremost intended for Valley Transit public transportation services and the use of those services by the general public. Safe and efficient movement of Valley Transit vehicles and customers within and upon facilities and properties is paramount to achieving safety, security, maintenance, and operational objectives and meeting general public expectations concerning Valley Transit's provision of public transportation services. Valley Transit's intent and desire is to allow

members of the general public to engage in public communication activities on Valley Transit vehicles or within or upon Valley Transit's facilities and properties to the extent that such activities are compatible with Valley Transit's legitimate proprietary functions and interests.

Accordingly, Valley Transit is, within reasonable limits, authorized to regulate the time, place, and manner in which persons engage in public communication activities. Without regard to content, individuals, or groups involved, some activities might be denied altogether, made subject to the Rules of Conduct, or limited by scope, location, or duration. Such activities would include, but are not necessarily limited to, those that are inconsistent with the intended purpose of a given area; pose safety or security risks; interfere with or impinge on the rights of others; impede the free flow of the general public; affect the orderly and efficient use of transit vehicles, facilities, or properties; or otherwise interfere with Valley Transit's public transportation services, operations, or maintenance activities.

Valley Transit expressly does not hereby designate its transit vehicles, facilities, or properties as public forums. It is the purpose of Article IV to describe the limited extent to which the general public is allowed to engage in public communication activities on Valley Transit vehicles and within or upon Valley Transit facilities and properties.

Article IV does not apply to Valley Transit employees engaged in authorized activities in the course of their employment or to events or commercial activities previously authorized by Valley Transit.

4. Facilities Governed by Article IV.

All Valley Transit vehicles, facilities, and properties are governed by Article IV herein.

B. Regulation of Public Communication Activities

1. Limitations

Public communication activities, which are otherwise lawful, are permitted on Valley Transit vehicles and within or upon Valley Transit facilities and properties, subject to the following exceptions and limitations:

- (a) Posting or affixing flyers, pamphlets, brochures, leaflets, or any other written, printed, or graphic materials of any kind is prohibited.
- (b) Selling or offering for sale or donation books, pamphlets, or any other written, printed, or graphic material is prohibited.
- (c) Soliciting funds is prohibited.
- (d) Signs, banners, structures, or other paraphernalia may not be affixed to or erected on Valley Transit vehicles or within or upon Valley Transit facilities or properties, except as authorized by Valley Transit or law.
- (e) Signs carried by or on a person are permitted, provided that the signs are not constructed of a size or material that could inadvertently or intentionally cause injury to a person or

property, and provided that the signs are not permitted on Valley Transit vehicles. Signs may not be of a size that obstructs the free flow of the general public and may not exceed 32 inches by 32 inches. A “sandwich board” sign may not extend beyond the carrier’s shoulders or, if used by a Permittee, beyond the permitted area.

- (f) Public communication activities will not be permitted in parking areas or roadways. Public communication activities may not block any loading zone, signage, stairway, escalator, elevator, customer service counter, ticket or automatic teller machine, authorized commercial activity, fire safety system component, telephone, information board, or the normal general public paths to and from such areas.
- (g) Public communication activities otherwise permitted under Article IV are prohibited if the number of person engaged in the activities, their location, or the manner of conducting the activities creates safety or security problems; interferes with the free flow of persons onto Valley Transit vehicles or into, within, or from Valley Transit facilities or properties; or interferes with the operation of such transit vehicles, facilities, or properties, or Valley Transit’s provision of public transportation services.
- (h) Persons engaged in public communication activities within or upon Valley Transit facilities and properties shall not use any parking spaces provided at such facilities or properties unless they are also using Valley Transit’s public transportation services.

C. Permitting Procedures

1. Permit. No person shall engage in public communication activities permitted under Article IV without first obtaining a Permit in accordance with the rules and procedures set forth herein.
2. Application for Permit. Any person that desires to obtain a Permit shall submit an application (“Application”) to Valley Transit’s Manager of Administration & Finance or his or her designee. A copy of the form of this Application is attached hereto as Appendix 1. Applications may be obtained in person from Valley Transit’s Business Office (1401 W. Rose Street, Walla Walla, WA 99362, Monday through Friday, 8:00am to 5:00pm). Applications may also be requested by mail or by calling (509/525-9140) during the Business Office hours of operation.
3. Issuance of Permit.
 - (a) Within a period of no longer than five calendar days of receipt of a completed Application, a Permit shall be issued by Valley Transit’s Manager of Administration & Finance or his or her designee, or the applicant shall be furnished a written statement setting forth the reason why the Application for a Permit had been denied. A Permit will not ordinarily be issued more than 14 calendar days prior to the commencement of intended use and will be valid only for the specific dates, times, and designated areas identified in the Permit. A Permit shall be effective for a period of no longer than seven calendar days and will be limited to the normal hours and days that the designated areas identified in the Permit are open for public access. Applications shall be processed in the order of their receipt.
 - (b) A Permit may be renewed prior to its expiration for up to seven additional calendar days by filing with Valley Transit’s Manager of Administration & Finance or his or her designee a notice that the Permittee intends to continue the activity, together with any amendments

necessary to keep the information required by the Application current and accurate. A Permit shall not be renewed if the notice and information herein required are not timely filed or if the continued presence of the Permittee cannot be accommodated under these rules and procedures.

- (c) Permittees are required to have the Permit on their person (or with the group) when engaged in the permitted activity and to present the Permit to Valley Transit and security personnel upon request. A copy of the form of the Permit is attached hereto as Appendix 3.
4. Denial of Permit. If a Permit is denied, Valley Transit's Manager of Administration & Finance or his or her designee shall serve on the applicant personally or by US Postal Service Priority Mail, delivery confirmation requested, a written statement of reasons for the denial. A Permit shall not be denied unless:
- (a) The applicant has not furnished the information required by the Application, or the applicant has failed to agree to the conditions of the Permit;
 - (b) Conditions exist which make the applicant's proposed activity at the date, time, or location proposed by the applicant incompatible with Valley Transit's operational function or is otherwise limited or prohibited under Article IV;
 - (c) The nature of the activity that the applicant wishes to conduct constitutes a commercial activity subject to other requirements of Valley Transit described in Article III herein;
 - (d) There has been within the previous 12 months: (i) an exclusion order issued to the applicant or participant pursuant to Article III herein; (ii) a revocation of a previous Permit issued to the applicant; or (iii) a failure to comply with the terms and conditions of a Permit previously issued to the applicant; or
 - (e) One or more applicants have requested Permits for the same date, time, or location; Valley Transit cannot reasonably accommodate additional public communication activities at that same date, time, or location; and the current applicant is not entitled to priority in accordance with these rules and procedures.
5. Revocation of Permit. A Permit may be revoked immediately by Valley Transit's Manager of Administration & Finance or his or her designee, when evidence exists that:
- (a) A Permittee has violated the provisions of the Permit or these Rules of Conduct, or
 - (b) The activity has attracted a crowd of sufficient size so as to begin to adversely impact the safety, security, or rights of others; the free flow of the general public; or the normal operation requirements of the transit vehicle, facility, or property.

Before revoking a Permit, the Manager of Administration & Finance or his or her designee may, but is not required to, give Permittees verbal warnings of any violations of the Permit or these Rules of Conduct or return a Permit after adverse conditions that existed at the time of revocation are no longer present.

6. Notice of Revocation.

- (a) Notice of revocation shall be in writing, supported by a statement of facts and a list of witnesses to the facts stated, and be personally served upon the Permittee or mailed to the Permittee by US Postal Service Priority Mail, delivery confirmation requested. A notice of revocation need not be in writing if immediate conditions exist that pose safety or security risks; interfere with or impinge on the rights of others; impede the free flow of the general public; affect the orderly and efficient use of the transit facility; or otherwise interfere with Valley Transit's public transportation services, operations, or maintenance activities. If written notice of revocation is not given because of such immediate conditions, the Valley Transit Manager of Administration & Finance or his or her designee shall, within three calendar days from the date of revocation, prepare a written notice of revocation as required above.
- (b) Once a Permit has been revoked, a person shall not continue their activity until another Permit has been obtained or the revoked Permit returned. If the Permit has been revoked on a permanent basis, all materials involved in the terminated activity must be removed immediately by the individual(s) involved.

7. Appeal from Denial or Revocation.

- (a) Upon notification of the denial of a Permit or revocation thereof, an applicant or Permittee may file with Valley Transit's General Manager a notice of appeal.
- (b) Upon Valley Transit's receipt of the notice of appeal, the matter shall be set for a hearing before Valley Transit's General Manager within fifteen calendar days. The General Manager or his or her designee shall issue a notice of hearing which shall be sent by certified mail, return receipt requested, to the applicant or Permittee, and which shall contain the date, time, and place of the hearing.
- (c) At the hearing, the applicant or Permittee may be represented by legal counsel. Testimony shall be taken upon oath or affirmation first of witnesses in support of the denial or revocation. The applicant or Permittee may then testify and present witnesses on his or her behalf. A record shall be made of the proceeding and kept on file with Valley Transit for at least three years.
- (d) The General Manager's findings and order shall, within seven calendar days of the conclusion of the hearing, be sent to the applicant or Permittee by US Postal Service Priority Mail, delivery confirmation requested.

8. Availability of and Limit Upon Permits.

- (a) Permits will be issued on a first-come, first-served basis, subject to availability, provided that Valley Transit may give preference to an applicant or applicants who have had the least opportunity during the preceding 30 calendar days to conduct public communication activities. Permits shall be issued without regard to the identity of the person or cause for which the Permit is being requested.

- (b) For safety and security reasons; to ensure that the free flow of the general public and the intended transportation functions of the transit vehicles, facilities, and properties are met; and to accommodate other activities competing for the limited available space; a maximum of four (4) individuals representing the same groups or causes will be allowed to engage in public communication activities at any given time.
9. Transferability. Upon written approval by Valley Transit's Manager of Administration & Finance, a Permit may be transferred to another person engaged in the same activity, provided that the receiving party complies with the conditions of the Permit and retains it on her or her person during the activity.
10. Reproduction. Permits may not be reproduced or altered in any manner. Reproduced or altered Permits will be considered invalid and confiscated. The holder of the invalid Permit will be required to cease their activity until a valid Permit is obtained.
11. Signs, Banners, Literature, Etc. Signs, banner, literature, leaflets, posters, structures, or other paraphernalia may not be affixed to the Valley Transit vehicles, facilities, or properties or erected in conjunction with an activity, unless space has otherwise been provided for such purpose or under provision stated elsewhere in these rules and procedures. Permittees may offer literature to the general public, but they shall refrain from attempting to distribute literature to any member of the general public who indicates he or she does not desire to receive said literature. Permittees may not distribute or offer to distribute said literature within ten (10) feet of persons in queue lines, bus exits or entrances, or permanent waiting fixtures, unless invited closer by a transit patron.
12. Responsibility for Clean-up. Permittees shall be responsible for cleaning up litter that they personally (or as a group) generate in the course of their activity. If, at the end of the Permittee's activity, the Permittee fails to clean up such litter, Valley Transit shall cause the clean-up of the Permittee's litter and the Permittee shall reimburse Valley Transit for all costs incurred therefore.
13. Unattended Distribution and Storage of Materials. No Permittee shall leave unattended distribution or storage of materials, placards, boxes, or other supplies used in support of public communication activities.
14. Hold Harmless. Any Permittee, including Permittee's personal representatives, successors in interest, and assigns, shall, as a precondition to the issuance of any Permit, agree to indemnify, defend and hold harmless Valley Transit and its officers, agents, and employees from all suits, claims, actions, and damages of whatsoever kind or nature arising out of or resulting from Permittee's use of the premises, except to the extent caused by the negligence of Valley Transit and its officers, agents, and employees. Any Permittee shall further covenant and agree to specifically assume potential liability for actions brought by Permittee's own employees against Valley Transit and its officers, agents, and employees and, for that purpose only, Permittee specifically waives any immunity under workers' compensation act, Title 51 RCW, provided, however, that said waiver shall not apply to such actions in which Permittee's employee alleges that the claim arises through no fault of Permittee, unless the fault of Permittee is established through discovery or at trial.

15. Interaction with the General Public. Valley Transit and its officers, agents, and employees, shall not unnecessarily interfere with any consensual conversation between Permittees and members of the general public. Permittees shall forthwith terminate any conversation with any member of the general public when requested to do so by the addressee. No person, while engaged in public communication activities, shall physically touch or contact a member of the general public, unless the person has previously consented to the contact or unless the person has previously agreed to contribute to the Permittee or the organization that he or she represents.
16. Misrepresentation. No person, while engaging in solicitation of funds, shall misrepresent the true purposes for which the resources obtained will be utilized by the person. In the solicitation of funds, the person shall inform the person being solicited of the true intent of the organization for which said funds are solicited. No false, fraudulent, or misleading statements or representations shall be made.
17. Permits and Licenses. The Permittee shall be responsible for obtaining all necessary permits and licenses from any other regulatory agencies required for the Permittee's use of transit vehicles, facilities, or properties. Permittee shall provide copies of said permits to Valley Transit upon its request.
18. Compliance with the Rules of Conduct and Laws. Permittees shall abide by the Rules of Conduct and all applicable federal, state, and municipal criminal and civil laws.

D. General

1. Liability for Clean-up

Any person engaged in public communication activities and found responsible for litter, damages, or destruction of property, whether by accident or intent, shall be responsible for the clean-up and/or liable for the cost of repairing or replacing the damaged or destroyed property.

2. Liability of Valley Transit

Nothing in Article IV or in the permission of public communications activities on Valley Transit vehicles or within or upon Valley Transit facilities or properties shall create a duty to any person on the part of Valley Transit or form any basis for liability on the part of Valley Transit or its agents or employees. The obligation to comply with the requirements of Article IV is solely that of any persons engaging in public communication activities and Valley Transit's enforcement of Article IV is discretionary, not mandatory.

3. Non-Valley Transit Uses

Notwithstanding the limitations and prohibitions contained in Article IV, Valley Transit reserves the right to enter into leases or other use agreements permitting non-Valley Transit uses of Valley Transit vehicles, facilities, or properties that are found to be compatible with Valley Transit's proprietary functions and interests.

Appendices

- Appendix 1 Valley Transit Exclusion Order
- Appendix 2 Valley Transit's Application for a Permit to Engage in Public Communication Activities
- Appendix 3 Valley Transit's Permit to Engage in Public Communication Activities
- Appendix 4 Valley Transit's Consent to Record Appeal Hearing
- Appendix 5 RCW 9.91.025

Appendix 1

VALLEY TRANSIT EXCLUSION ORDER

DATE: _____

TO: _____

ADDRESS: _____ PHONE: _____

This letter shall serve as a Notice of Exclusion.

This exclusion is effective _____ for _____ except as specified in the appeal process.
(Beginning Date) (No. of Days)

Throughout this period you are barred from contact with any Valley Transit Employee or entering in or onto:

Failure to comply with this Exclusion Order shall be grounds for criminal prosecution for trespass.

This action is being taken because:

If you wish to appeal this decision, you must contact the Operations Manager, in writing, (or by phone) (509/525-9140) at the address below, within 15 calendar days of the effective date of this Exclusion Order. You may request a hearing or a review without a hearing based on a written statement why you believe this exclusion is invalid or improper. **This exclusion will remain in effect throughout the appeal process.**

Operations Manager/Road Supervisor

NOTES:

Appendix 2

VALLEY TRANSIT'S APPLICATION FOR A PERMIT TO ENGAGE IN PUBLIC COMMUNICATION ACTIVITIES

1. Please state the applicant's name, address, and telephone number:

2. Please state the name, address, and telephone number of the person and/or organization sponsoring, promoting, or organizing the requested activity, if any:

3. Does the applicant intend to use tables and chairs? _____

4. Please state the location, date, time, and duration of the activity the applicant wishes to conduct:

5. Please describe any props (i.e., books, pamphlets, leaflets, flyers, signs, etc.) the applicant intends to use, without reference to the content of those props:

6. By signing this application, the applicant hereby acknowledges that he/she has read and agrees to abide by the Transit Agency Rules of Conduct and all applicable federal, state, and municipal criminal and civil laws.

DATED this _____ day of _____, 20____

Applicant

By: _____

Title: _____

VALLEY TRANSIT • 1401 W. Rose Street • 509 525-9140

Appendix 3

VALLEY TRANSIT'S PERMIT TO ENGAGE IN PUBLIC COMMUNICATION ACTIVITIES

The Valley Transit, [address], hereby authorizes _____ (the "Permittee") to engage in public communication activities on Valley Transit vehicles, facilities, and/or properties under the terms and conditions set forth herein. The Permittee recognized and agrees that this Permit is issued for the Permittee's sole benefit and convenience. Valley Transit assumes no responsibility for the care or custody of equipment, materials, supplies, or any other furniture to be used on Valley Transit property, nor does Valley Transit agree to provide an alternative facility if for any reason the premises should cease to be available. This Permit is subject to the following conditions, and by accepting this Permit the Permittee thereby has accepted each such condition:

1. Authorized Areas:

[insert description of designated area of permitted activity, and include a map of the area if available]

2. Participants:

[insert the identity of the person(s) who is participating in the activity]

3. Term: The days and hours of use are limited to:

This Permit shall be effective through

4. Other restrictions or limitations:

5. Retention of Permit: The Permittee is required to have this Permit on their person (or with the group) when engaged in the public communication activity.

6. Reproduction of Permit: This Permit may not be reproduced or altered in any manner. Reproduced or altered permits will be considered invalid and confiscated. The holder of the invalid permit will be required to cease his or her activity until a valid permit is obtained.

7. Responsibility for Clean-up: All persons or groups issued this Permit shall be responsible for cleaning up litter that they personally (or as a group) generate in the course of their activity. If, at the end of the Permittee's activity, the Permittee fails to clean up such litter, Valley Transit shall cause the clean-up of the Permittee's litter and the Permittee shall reimburse Valley Transit for all costs incurred therefor.

8. Liability for Damaging Property: Any person or organization engaged in public communication activities and found responsible for damaging, injuring, or destroying Valley Transit property, whether by accident or intent, shall be liable for the cost of replacing and/or repairing such property.

9. **Signs, Banners, Literature, Etc.** Signs, banners, structures, or other paraphernalia may not be affixed to or erected on Valley Transit vehicles or within or upon Valley Transit facilities or properties, except as authorized by Valley Transit or law. Signs carried by or on a person are permitted, provided that the signs are not constructed of a size or material that could inadvertently or intentionally cause injury to a person or property, and provided that the signs are not permitted on Valley Transit vehicles. Signs may not be of a size that obstructs the free flow of the general public and may not exceed 32 inches by 32 inches. A "sandwich board" sign may not extend beyond the carrier's shoulders or, if used by a Permittee, beyond the permitted area. Permittees may offer literature to the general public, but they shall refrain from attempting to distribute literature to any member of the general public who indicates he or she does not desire to receive said literature. Permittees may not offer to distribute or distribute said literature within ten (10) feet of persons in queue lines, bus exits or entrances, or permanent waiting fixtures, unless invited closer by a transit patron.
10. **Hold Harmless:** The Permittee, including Permittee's personal representatives, successors in interest, and assigns, hereby agrees to indemnify, defend and hold harmless Valley Transit and its officers, agents, and employees from all suits, claims, actions, and damages of whatsoever kind or nature arising out of or resulting from Permittee's use of the premises, except to the extent caused by the negligence of Valley Transit and its officers, agents, and employees. Any Permittee shall further covenant and agree to specifically assume potential liability for actions brought by Permittee's own employees against Valley Transit and its officers, agents, and employees and, for that purpose only, Permittee specifically waives any immunity under workers' compensation act, Title 51 RCW, provided, however, that said waiver shall not apply to such actions in which Permittee's employee alleges that the claim arises through no fault of Permittee, unless the fault of Permittee is established through discovery or at trial.
11. **Interaction with the General Public:** Valley Transit and its officers, agents, and employees, shall not unnecessarily interfere with any consensual conversation between Permittees and members of the general public. Permittees shall forthwith terminate any conversation with any member of the general public when requested to do so by the addressee. No person, while engaged in public communication activities, shall physically touch or contact a member of the general public, unless the person has previously consented to the contact or unless the person has previously agreed to contribute to the Permittee or the organization that he or she represents.
12. **Misrepresentations:** No person, while engaging in solicitation of funds, shall misrepresent the true purposes for which the resources obtained will be utilized by the person. In the solicitation of funds, the person shall inform the person being solicited of the true intent of the organization for which said funds are solicited. No false, fraudulent, or misleading statements or representations shall be made.
13. **Permits and Licenses.** The Permittee shall be responsible for obtaining all necessary permits and licenses from any other regulatory agencies required for the Permittee's use of transit vehicles, facilities, or properties. Permittee shall provide copies of said permits to Valley Transit upon its request.
14. **Compliance with the Rules of Conduct and Laws.** Permittees shall abide by the Rules of Conduct and all applicable federal, state, and municipal criminal and civil laws.

DATED this _____ day of _____, 20_____

VALLEY TRANSIT

By: _____

Name: _____

Title: _____

Appendix 4

VALLEY TRANSIT'S CONSENT TO RECORD APPEAL HEARING

It is Valley Transit's routine business practice to make an audio recording of Valley Transit exclusion appeal hearings. By signing this consent form, you are confirming that you understand that this exclusion appeal is being recorded, and you are confirming that the recording is being made with your consent.

Signature of appellant: _____ Date: _____

Printed name of appellant: _____

Signature of hearing officer: _____ Date: _____

Printed name of hearing officer: _____

Date/location of appeal hearing: _____

* In the event of a telephonic appeal hearing, the hearing officer can read this consent form into the record and request the appellant's oral authorization to record the hearing.

Appendix 5

RCW 9.91.025

Unlawful Transit Conduct

(1) A person is guilty of unlawful transit conduct if, while on or in a transit vehicle or in or at a transit station, he or she knowingly:

(a) Smokes or carries a lighted or smoldering pipe, cigar, or cigarette, unless he or she is smoking in an area designated and authorized by the transit authority;

(b) Discards litter other than in designated receptacles;

(c) Dumps or discards, or both, any materials on or at a transit facility including, but not limited to, hazardous substances and automotive fluids;

(d) Plays any radio, recorder, or other sound-producing equipment, except that nothing herein prohibits the use of the equipment when connected to earphones or an ear receiver that limits the sound to an individual listener. The use of public address systems or music systems that are authorized by a transit agency is permitted. The use of communications devices by transit employees and designated contractors or public safety officers in the line of duty is permitted, as is the use of private communications devices used to summon, notify, or communicate with other individuals, such as pagers and cellular phones;

(e) Spits, expectorates, urinates, or defecates, except in appropriate plumbing fixtures in restroom facilities;

(f) Carries any flammable liquid, explosive, acid, or other article or material likely to cause harm to others, except that nothing herein prevents a person from carrying a cigarette, cigar, or pipe lighter or carrying a firearm or ammunition in a way that is not otherwise prohibited by law;

(g) Consumes an alcoholic beverage or is in possession of an open alcoholic beverage container, unless authorized by the transit authority and required permits have been obtained;

(h) Obstructs or impedes the flow of transit vehicles or passenger traffic, hinders or prevents access to transit vehicles or stations, or otherwise unlawfully interferes with the provision or use of public transportation services;

(i) Unreasonably disturbs others by engaging in loud, raucous, unruly, harmful, or harassing behavior;

(j) Destroys, defaces, or otherwise damages property in a transit vehicle or at a transit facility;

(k) Throws an object in a transit vehicle, at a transit facility, or at any person at a transit facility with intent to do harm;

(l) Possesses an unissued transfer or fare media or tenders an unissued transfer or fare media as proof of fare payment;

(m) Falsely claims to be a transit operator or other transit employee or through words, actions, or the

use of clothes, insignia, or equipment resembling department-issued uniforms and equipment, creates a false impression that he or she is a transit operator or other transit employee;

(n) Engages in gambling or any game of chance for the winning of money or anything of value;

(o) Skates on roller skates or in-line skates, or rides in or upon or by any means a coaster, skateboard, toy vehicle, or any similar device. However, a person may walk while wearing skates or carry a skateboard while on or in a transit vehicle or in or at a transit station if that conduct is not otherwise prohibited by law; or

(p) Engages in other conduct that is inconsistent with the intended use and purpose of the transit facility, transit station, or transit vehicle and refuses to obey the lawful commands of an agent of the transit authority or a peace officer to cease such conduct.

(2) For the purposes of this section:

(a) "Transit station" or "transit facility" means all passenger facilities, structures, stops, shelters, bus zones, properties, and rights-of-way of all kinds that are owned, leased, held, or used by a transit authority for the purpose of providing public transportation services.

(b) "Transit vehicle" means any motor vehicle, street car, train, trolley vehicle, ferry boat, or any other device, vessel, or vehicle that is owned or operated by a transit authority or an entity providing service on behalf of a transit authority that is used for the purpose of carrying passengers on a regular schedule.

(c) "Transit authority" means a city transit system under RCW [35.58.2721](#) or chapter [35.95A](#) RCW, a county transportation authority under chapter [36.57](#) RCW, a metropolitan municipal corporation transit system under chapter [36.56](#) RCW, **a public transportation benefit area under chapter [36.57A](#) RCW**, an unincorporated transportation benefit area under RCW [36.57.100](#), a regional transportation authority under chapter [81.112](#) RCW, or any special purpose district formed to operate a public transportation system.

(3) Any person who violates this section is guilty of a misdemeanor.

[2009 c 279 § 3; 2004 c 118 § 1; 1994 c 45 § 4; 1992 c 77 § 1; 1984 c 167 § 1.]

Notes:

Findings -- Declaration -- Severability -- 1994 c 45: See notes following RCW [7.48.140](#).

Drinking in public conveyance: RCW [66.44.250](#)